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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,812	11/10/2005	Markus Wassum		1866
60333	7590	02/01/2008		
EDWIN D. SCHINDLER FIVE HIRSCH AVENUE P.O. BOX 966 CORAM, NY 11727-0966			EXAMINER NGO, LIEN M	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 02/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,812

Applicant(s)

WASSUM ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks et al. (5,839,627) in view of Weiteder et al. (5,875,958).

In regard to claims 9, 14 and 15 Hicks et al. disclose, in figs. 1 and 7, a pourer closure comprising a bottom part 12 having a base plate including a drain opening 24, and upwardly jutting projection; a cover 10; a break-off plate 20 running flush with a bottom side of the base plate and both fixable on a composite pack or a thick foil; and a tongue 30.

Hick et al. do not disclose the pourer closure is a flat and low profile, a hinged cover, the tongue formed at an edge of a recess in the break-off plate; and a pouring lip formed at upwardly jutting projection.

Weiteder et al. teach, in figs. 1, 5 and 6, a flat low pourer closure having a hinged cover 4, a tongue 8 formed at an edge of a recess in a break-of plate, and a pouring lip formed at upwardly jutting projection.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Hicks et al. with a flat

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low pourer closure having a hinged cover, and a tongue formed at an edge of a recess in a break-off plate, and a pouring lip formed at upwardly jutting projection, as taught by Weiteder et al., in order to facilitate opening of the cover, gripping the tongue, and pouring contents of the package.

In regard to claim 13, the hinge cover of Weiteder et al. comprising a holding strip 11 at a front end.

3. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks et al. in view of Weiteder et al., and further in view of Schellenberg et al. (2004/0035883).

Schellenberg et al. teach, in figs. 3-5, a tongue 4 of break-off plate including ribs; and first and second beads 15, 18 as claimed.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pourer closure of Hicks et al. in view of Weiteder et al. with a tongue 4 of break-off plate including ribs; and first and second beads 15, 18 as claimed, as taught by Schellenberg et al., in order to facilitate gripping the tongue and enhance the sealing tightness of the pouring closure.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks et al. in view of Weiteder et al., and further in view of Wagner (6,481,588).

Wagner teaches a hinge of a closure lid comprising two hinge levers and an open space between the two hinge levers with a tooth.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hinge in the invention of Hicks et al. in view of Weiteder et al. with two hinge levers and an open space between the two hinge levers with a tooth, in view teaching of Wagner, in order to provide a snap hinge for the closure lid.

Response to Arguments

5. Applicant's arguments with respect to claims 9-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO
Primary Examiner
Art Unit 3754

January 31, 2008

